REMARKS

This paper is responsive to the Office Action dated January 23, 2007. All rejections and objections of the Examiner are respectfully traversed. Reconsideration and further examination are respectfully requested.

At paragraph 1 of the Office Action, the Examiner rejected claim 32 as being directed to non-statutory subject matter. Applicants respectfully traverse this rejection.

Applicants first respectfully note that the PTO has for years accepted claims directed to program code embodied in a carrier wave. This type of claim format is the direct outcome of published training materials used in the PTO that expressly included an example of an acceptable claim to a "computer data signal embodied in a carrier wave". In fact, the PTO has issued many patents having at least one such "propagated signal" claim ("hundreds" of such patents have been issued, according to "RESPONSE TO THE PTO REQUEST FOR COMMENTS ON PROPOSED GUIDELINES RE:SUBJECT MATTER ELIGIBILITY", submitted to the PTO by The National Association of Patent Practitioners, July 31, 2006). In reliance on these well known facts, Applicants have in this case applied for claim 32 to protect the invention in what has become a standard claim format used for computer related inventions. Applicants respectfully submit that for the Patent Office to now to promote rejection of such claims, based on interpretation of the Interim Guidelines for Examination of Patent Applications for Patent Subject Matter Eligibility published on 22 November 2005 ("Interim Guidelines"), is an unfair reversal of a well established policy, based solely on administrative actions internal to the Patent Office, without sufficient motivation or support in statutory or case law. No new case has been decided, or law enacted, that provides a reasonable basis for such a change in treatment of this type of claim.

Applicants respectfully assert that 35 U.S.C. 101 still does not preclude signal-related claims such as the present claim 32. 35 U.S.C. 101 states as follows:

> Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

The present claim 32 should at least be considered proper subject matter as a "manufacture" under 35 U.S.C. 101. Applicants respectfully disagree with the proposition espoused in the Interim Guidelines that signal claims lack physical substance. The present claim 32 is directed to "A computer data signal embodied in a carrier wave . . . ", and as such would be recognized by those skilled in the art as a *physical* signal, recognizable by a computer system, and used to convey computer program code and/or data through a computer communication network by way of a carrier wave on which it is embodied. Applicants respectfully submit that the subject matter of claim 32 is thus physically substantial, and claim 32 is therefore clearly not directed to something that would be considered physically insubstantial, such as a mere mental process or thought. As is well known in the art, the relevant physical substance of the "computer data signal" in claim 32 is the representation of the computer program it embodies, which in turn is significant to the functional operation of a receiving computer system.

In addition, the category of "manufacture" in 35 U.S.C. 101 includes no requirement that a claim be directed to a "tangible physical article or object", as asserted in the Interim Guidelines. Such a requirement would run contrary to the Supreme Court's well known holding in *Diamond V. Chakrabarty* that the statute is intended to include "anything under the sun that is made by man". Similarly, the Federal Circuit has held that "physical matter" is not an appropriate test for the determination of patentable subject matter. For example, *In re Lowry* 32 F.3d 1579, 32 USPQ2d 1031 (Fed. Cir. 1994) found eligible subject matter for an invention in which ". . . the

stored data adopt no physical 'structure' per se. Rather, the stored data exist as a collection of bits . . ."

For these reasons Applicants respectfully urge that claim 32 as it currently stands is directed to statutory subject matter under 35 U.S.C. 101.

At paragraphs 2-4 of the Office Action, the Examiner rejected claims 13 and 23 under 35 U.S.C. 112, second paragraph, for lacking antecedent basis. Amendments to claims 13 and 23 herein are respectfully believed to meet all requirements of the Examiner in this regard.

At paragraphs 6-9 of the Office Action, the Examiner objected to the drawings as originally filed. Amendments to the Specification and Fig. 23 herein are respectfully believed to meet all requirements of the Examiner in this regard.

At paragraphs again numbered 6-9 of the Office Action, albeit found on pages 6 through 11, the Examiner rejected claims 1-3, 8-13, 18-23, and 28-32 for anticipation under 35 U.S.C. 102, and claims 4-7, 15-17, and 24-27 for obviousness under 35 U.S.C. 103, citing U.S. patent number 6,697,840 of Godefroid et al. ("Godefroid et al."). Applicants respectfully traverse these rejections.

Godefroid et al. disclose presence awareness initiatives implemented in a collaborative system that enables a user to set presence awareness policies, and that provides a reasonably high assurance that the system will correctly implement those policies. The collaborative presence awareness system of Godefroid et al. enables users to specify presence awareness policies, and includes tools to establish a level of assurance that the presence awareness system has the capability to implement correctly, substantially all possible presence awareness policies. The presence awareness policy specifications of Godefroid et al. are modular relative to the rest of the presence awareness system, and can be modified without having to modify computational

modules or user interface program code of the presence awareness system. A user of the Godefroid et al. system can update his or her presence information. In accordance with still another aspect of the invention, the Godefroid et al. system automatically collects presence information about the user and automatically updates his or her presence information. The presence awareness system of Godefroid et al. may use specification-based testing at run-time to monitor whether some users' presence awareness policies have inadvertently been violated, further strengthening the reliability of the system.

Godefroid et al. further disclosed that a user interface sends the messages to the rest of a presence awareness system indicating login, logout, screensaver(on), and screensaver(off) events (column 5, lines 15-18).

In the Godefroid et al. system, a user may inquire about the presence of other users. These inquiries may relate to a user's interest in the login status of another user, the screen saver status of another user, whether another user is in a collaborative session, the other user's indicated willingness to interact (a "door" status), access rules and settings of the other user, and the other user's calendar, location, phone number, email address, and real name (in the case of anonymous participation). For these user activities, the Godefroid et al. user interface sends check-availability (X), check-name(X), check-chatters(X) messages to the rest of the presence awareness system, and receives available(X), unavailable(X), name(real(X), pseudo(Y)), and chatters(SID, SetOfChatters) messages from the presence awareness system, where each chat session is identified by a globally unique id "SID".

Nowhere in Godefroid et al. is there disclosed or suggested any system for providing a local computer user with detailed activity information regarding instant messaging sessions of remote users, including:

sensing, at a remote computer system, the number of instant messaging sessions associated with a user of said remote computer system;

conveying said number of instant messaging sessions associated with said user of said remote computer system from said remote computer system to an awareness server application process;

conveying said number of instant messaging sessions associated with said user of said remote computer system from said awareness server application to an awareness client application process executing on a local computer system; and

presenting, by said awareness client application process, said number of instant messaging sessions associated with said user of said remote computer system in a display for said local computer system. (emphasis added)

as in the present independent claim 1.   Independent claims 11, 21, 31 and 32 include analogous features. While Godefroid et al. teaches receiving messages from a presence awareness system at a user interface including "available(X), unavailable(X), name(real(X), pseudo(Y)), chatters(SID,SetOfChatters)", Godefroid et al. is silent with regard to how such messages are processed when received, and/or how information contained in such received messages may be presented to a user.   Nothing in Godefroid et al. provides any suggestion of even the desirability of performing any determining (e.g. counting) the number of instant messaging sessions associated with a user of a remote computer system.   Accordingly, the teachings of Godefroid et al. similarly do not disclose or suggest presenting the number of instant messaging sessions associated with the user of the remote system in a display for the local computer system, as in the present independent claims 1, 11, 21, 31 and 32.

In addition, Applicants further respectfully traverse the Examiner's rejection of claims 4, 14, and 24, in which the Examiner states that the teachings of Godefroid et al. make obvious displaying an activity level associated with said at least one of said instant messaging sessions associated with said remote user reflecting a time at which a most recent keystroke was entered

by said user of said remote computer system in said at least one of said instant messaging sessions. While Godefroid et al. teach that users may be interested in how long another user has been in a chat session, they provide no teaching that a user might be interested in when a last keystroke was entered. Further, Godefroid et al. are silent with regard to any technique for *providing* a time at which a session of the remote user was started, or the time that has expired since the session was started. As noted above, the messages received by the local user interface from the presence awareness system in Godefroid et al. are described as "available(X), unavailable(X), name(real(X), pseudo(Y)), chatters(SID,SetOfChatters)". None of these messages include even a time at which a session of a remote user was started, or the duration of any sessions of the remote user. The teachings of Godefroid et al. do not include anything regarding requesting, recording or providing a time at which a last keystroke was entered in a session by a remote user. Moreover, the timestamps disclosed in Godefroid et al. are related to the times at which *messages were sent* (column 7, lines 35-39), and not to any time at which *a most recent keystroke was entered in a session*, as in the present claims 4, 14 and 24.

For the above reasons, Applicants respectfully submit that Godefroid et al. does not disclose or suggest all the features of the present independent claims 1, 11, 21, 31 and 32. Accordingly, Godefroid et al. does not anticipate the present independent claims 1, 11, 21, 31 and 32 under 35 U.S.C. 102, nor does Godefroid et al. render the present independent claims 1, 11, 21, 31 and 32 under 35 U.S.C. 103. As to the remaining claims, they each depend either directly or indirectly from independent claims 1, 11, 21, 31 and 32, and are respectfully believed to be patentable over Godefroid et al. for at least the same reasons.

Applicants have made a diligent effort to place the claims in condition for allowance. However, should there remain unresolved issues that require adverse action, it is respectfully

requested that the Examiner telephone Applicants' Attorney at the number listed below so that

such issues may be resolved as expeditiously as possible.

For these reasons, and in view of the above amendments, this application is now

considered to be in condition for allowance and such action is earnestly solicited.

Respectfully Submitted,

___April 23, 2007_____   _____/David Dagg/_____
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